

PRELIMINARY AMENDMENT
U.S. Appln. No. 09/915,543

REMARKS

In the Advisory Action dated March 10, 2004, the Examiner refuses to enter the Amendment After Final filed February 27, 2004, on the basis that such raises new issues which require further consideration and/or search.

Specifically, the Examiner contends that the new limitation "inhibits tcf-driven luciferase activity" in place of the limitation "blocks Lgs function" is a narrower limitation which would require a new search and further consideration.

Applicants note that the Examiner indicates that upon entry of this amendment, the rejection under 35 U.S.C. § 102 over Tang et al would be withdrawn.

Accordingly, Applicants file herewith a Request for Continued Examination (RCE) seeking entry of the Amendment After Final, thereby resulting in withdrawal of the rejection over Tang et al.

With regards to the amendments to Claim 71 in said Amendment After Final, the Examiner indicates in the Advisory Action that Applicants cancelled "or" in line 6, which introduces new considerations under 35 U.S.C. § 112, second paragraph, as to clarity of the claim.

The Examiner is requested to note that the deletion of "or" between sections (i) and (ii) was an obvious typographical error. Hence, the present Preliminary Amendment is being filed to correct this obvious typographical error, thereby rendering moot any possible rejection under 35 U.S.C. § 112, second paragraph.

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Applicants note that the Examiner also states in the Advisory Action that entry of the Amendment After Final will still not place the application in condition for allowance, i.e., the Examiner will maintain the rejection under 35 U.S.C. § 112, first paragraph for the reasons of record.

Specifically, the Examiner notes that Applicants argue that the claimed polypeptides have sufficient written description because the critical part of the invention lies with the HD1 or HD2 homology regions which are claimed by sequence and function.

However, the Examiner contends that this is not persuasive because the claimed function of "blocking Lgs function" is so broad that it would include activities that would require the sequence of the larger, undescribed polypeptides.

The Examiner is requested to note that, upon entry of the Amendment After Final, the expression "blocking Lgs function" is changed to "inhibits tcf-driven luciferase activity". Thus, the claims would not be as broad as the Examiner contends.

In view of the Amendment After Final and the present Preliminary Amendment, reexamination, reconsideration and allowance are respectfully requested.

The Examiner is invited to contact the undersigned at the below listed number on any questions which ~~might~~ arise.

Respectfully submitted,

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